



General Assembly

***Substitute Bill No. 450***

*February Session, 2000*

***An Act Concerning Urban And Industrial Site Reinvestment.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (a) There is established an urban and industrial  
2       site reinvestment program under which taxpayers who invest in  
3       eligible urban reinvestment projects or eligible industrial site  
4       investment projects may be allowed a credit against the tax imposed  
5       under chapter 207, 208 or 229 of the general statutes or section 38a-743  
6       of the general statutes, or a combination of said taxes, in an amount  
7       equal to the percentage of their investment determined in accordance  
8       with subsection (i) of this section.

9       (b) As used in this section:

10       (1) "Commissioner" means the Commissioner of Economic and  
11       Community Development.

12       (2) "Eligible industrial site investment project" means an investment  
13       made in real property, or in improvements to real property, located  
14       within the state: (A) (1) That has been subject to a "spill", as defined in  
15       section 22a-452c of the general statutes, or (2) is an "establishment", as  
16       defined in subdivision (3) of section 22a-134 of the general statutes, as  
17       amended, or (3) is a "facility", as defined in 42 USC 9601(9); (B) that, if  
18       remediated, renovated or demolished in accordance with applicable  
19       law and regulations and used for business purposes, may add

20 significant new economic activity and employment in the municipality  
21 in which the investment is to be made, and may generate additional  
22 tax revenues to the state; (C) for which the use of the urban and  
23 industrial site reinvestment program may be necessary to attract  
24 private investment to the project; and (D) the business use of which is  
25 economically viable and will generate direct and indirect economic  
26 benefits to the state that will exceed the amount of the investment  
27 during the period for which the tax credits granted pursuant to this act  
28 are granted.

29 (3) "Eligible urban reinvestment project" means an investment: (A)  
30 That will add significant new economic activity and new jobs in a new  
31 facility in the eligible municipality in which the investment is to be  
32 made, and may generate significant additional tax revenues to the state  
33 or the municipality; (B) for which the use of the urban and industrial  
34 site reinvestment program may be necessary to attract private  
35 investment to an eligible municipality; (C) that is economically viable;  
36 (D) for which the direct and indirect economic benefits to the state  
37 outweigh the costs of the investment; and (E) that is consistent with the  
38 strategic economic development priorities of the state and the  
39 municipality.

40 (4) "Related person" means: (A) A corporation, limited liability  
41 company, partnership, association or trust controlled by the taxpayer;  
42 (B) an individual, corporation, limited liability company, partnership,  
43 association or trust that is in control of the taxpayer; (C) a corporation,  
44 limited liability company, partnership, association or trust controlled  
45 by an individual, corporation, limited liability company, partnership,  
46 association or trust that is in control of the taxpayer; or (D) a member  
47 of the same controlled group as the taxpayer. For purposes of this  
48 section, "control", with respect to a corporation, means ownership,  
49 directly or indirectly, of stock possessing fifty per cent or more of the  
50 total combined voting power of all classes of the stock of such  
51 corporation entitled to vote. "Control", with respect to a trust, means  
52 ownership, directly or indirectly, of fifty per cent or more of the  
53 beneficial interest in the principal or income of such trust. The

54 ownership of stock in a corporation, of a capital or profits interest in a  
55 partnership or association or of a beneficial interest in a trust shall be  
56 determined in accordance with the rules for constructive ownership of  
57 stock provided in Section 267(c) of the Internal Revenue Code of 1986,  
58 or any subsequent corresponding internal revenue code of the United  
59 States, as from time to time amended, other than paragraph (3) of such  
60 section.

61 (5) "Investment" means all amounts invested in a project, whether  
62 directly or through a fund, directly or indirectly, on behalf of a  
63 taxpayer, including, but not limited to (A) direct investments made by  
64 the taxpayer, and (B) loans made to the fund for the benefit of the  
65 taxpayer which loans are guaranteed by the taxpayer.

66 (6) "Income year" means (A) with respect to corporations subject to  
67 taxation under chapter 208 of the general statutes, the income year as  
68 determined under said chapter 208, (B) with respect to insurance  
69 companies, hospital and medical services corporations subject to  
70 taxation under chapter 207 of the general statutes, the income year as  
71 determined under said chapter 207, and (C) with respect to taxpayers  
72 subject to taxation under chapter 229 of the general statutes, the  
73 taxable year determined under said chapter 229.

74 (7) "Taxpayer" means any person, as defined in section 12-1 of the  
75 general statutes, whether or not subject to any taxes levied by this  
76 state.

77 (8) "Fund manager" means a fund manager registered in accordance  
78 with subsection (d) of this section.

79 (9) "New job" means a job that did not exist in the business of a  
80 subject business in this state prior to the subject business' application  
81 to the commissioner for an eligibility certificate under this section for a  
82 new facility and that is filled by a new employee, but does not include  
83 a job created when an employee is shifted from an existing location of  
84 the subject business in this state to a new facility.

85       (10) "New employee" means a person hired by a subject business to  
86 fill a position for a new job or a person shifted from an existing  
87 location of the subject business outside this state to a new facility in  
88 this state, provided (A) in no case shall the total number of new  
89 employees allowed for purposes of this credit exceed the total increase  
90 in the taxpayer's employment in this state, which increase shall be the  
91 difference between (i) the number of employees employed by the  
92 subject business in this state at the time of application for an eligibility  
93 certificate to the commissioner plus the number of new employees  
94 who would be eligible for inclusion under the credit allowed under  
95 this section without regard to this calculation and (ii) the highest  
96 number of employees employed by the subject business in this state in  
97 the year preceding the subject business' application for an eligibility  
98 certificate to the commissioner, and (B) a person shall be deemed to be  
99 a "new employee" only if such person's duties in connection with the  
100 operation of the facility are on a regular, full-time, or equivalent  
101 thereof, and permanent basis.

102       (11) "New facility" means a facility which (A) is acquired by, leased  
103 to, or constructed by, a subject business on or after the date of the  
104 subject business' application to the commissioner for an eligibility  
105 certificate under this section, unless, upon application of the subject  
106 business and upon good and sufficient cause shown, the commissioner  
107 waives the requirement that such activity take place after the  
108 application, and (B) was not in service or use during the one-year  
109 period immediately prior to the date of the subject business'  
110 application to the commissioner for an eligibility certificate under this  
111 section, unless upon application of the subject business and upon good  
112 and sufficient cause shown, the commissioner consents to waiving the  
113 one-year period.

114       (12) "Eligible municipality" means (A) a municipality with an area  
115 designated as an enterprise zone pursuant to section 32-70 of the  
116 general statutes, (B) a distress municipality as defined in subsection (b)  
117 of section 32-9p of the general statutes, or (C) which has a population  
118 in excess of one hundred thousand.

119       (13) "Cluster" means three or more subject businesses in the state  
120 which are involved in interrelated businesses and which are located in  
121 close proximity to each other relative to the need for interaction of the  
122 subject businesses.

123       (14) "Eligible project" means an eligible urban reinvestment project  
124 or an eligible industrial site investment project or both.

125       (15) "Approved investment" means an investment approved by the  
126 commissioner under subsection (g) of this section.

127       (16) "Recapture amount" means the amount by which the approved  
128 investment exceeds the amount of state revenue generated by the  
129 approved investment.

130       (17) "Pro rata share" means the percentage of the amount invested  
131 by an individual investor in an approved investment bears to the total  
132 amount of the approved investment actually invested in the project, or  
133 in the case of a taxpayer to whom credits are transferred under this  
134 section, the percentage of the amount of credits transferred bears to the  
135 total amount of the approved investment actually invested in the  
136 project.

137       (c) No project shall be deemed an eligible project unless such project  
138 will, in the judgment of the commissioner, be of sufficient size to  
139 generate a substantial return to the state economy.

140       (d) The commissioner may register managers of funds created for  
141 the purpose of investing in eligible urban reinvestment projects and  
142 eligible industrial site investment projects. Any manager registered  
143 under this subsection shall have such manager's primary place of  
144 business in this state. Each applicant shall submit an application under  
145 oath to the commissioner to be registered and shall furnish evidence  
146 satisfactory to the commissioner of its financial responsibility,  
147 integrity, professional competence and experience in managing  
148 investment funds. Failure to maintain adequate fiduciary standards  
149 shall constitute cause for the commissioner to revoke, after hearing,

150 any registration granted under this section. The fund manager shall  
151 make a report on or before the first day of March in each year, under  
152 oath, to the Commissioner of Revenue Services specifying the name,  
153 address and Social Security number or employer identification number  
154 of each investor, the year during which each investment was made by  
155 each investor, the amount of each investment, a description of the  
156 fund's investment objectives and relative performance and a  
157 description, including amounts, of all fees and expenses charged or  
158 incurred by such manager in relation to each fund. Any manager of  
159 funds registered on or before the effective date of this section pursuant  
160 to section 38a-88a of the general statutes shall be deemed registered for  
161 all purposes under the provisions of this section.

162 (e) Any taxpayer or fund manager wishing to make an investment  
163 under the provisions of this act shall apply to the commissioner in  
164 accordance with the provisions of this act. The application shall  
165 contain sufficient information to establish compliance with each of the  
166 eligibility criteria set forth in subdivisions (2) and (3) of subsection (b)  
167 of this section, as appropriate, concerning the type of investment  
168 proposed to be made, its location, the number of jobs to be created or  
169 retained, physical infrastructure that might be created or preserved,  
170 feasibility studies or business plans for the investment, projected  
171 revenue the state might derive as a result of the investment and other  
172 information necessary to demonstrate the financial viability of the  
173 investment and to demonstrate that the investment will provide net  
174 benefits to the economy of, and employment for citizens of, the  
175 municipality and the state. The commissioner shall impose a fee for  
176 such application as it deems appropriate.

177 (f) (1) The commissioner shall determine whether the proposed  
178 investment is an eligible urban reinvestment project or an eligible  
179 industrial site investment project, whether the investment is  
180 economically viable only with use of the urban and industrial site  
181 reinvestment program, the effects of the project on the municipality  
182 where the investment will be made and whether the project would  
183 provide a net benefit to economic development and employment

184 opportunities in the state. The commissioner may require the taxpayer  
185 or fund manager to submit such additional information as may be  
186 necessary to evaluate the application.

187 (2) The commissioner shall prepare a revenue impact assessment  
188 that estimates the state and local revenue that would be generated as a  
189 result of the investment. The commissioner may prepare an economic  
190 feasibility study relative to such investment. The commissioner may  
191 retain any such persons as it deems appropriate to conduct such  
192 revenue impact assessment or economic feasibility study.

193 (g) (1) The commissioner, upon consideration of the application, the  
194 revenue impact assessment and any additional information that the  
195 commissioner requires concerning a proposed investment, may  
196 approve an investment only if it concludes that the investment is an  
197 eligible urban reinvestment project or an eligible industrial site  
198 investment project. The commissioner shall approve the application if  
199 the taxpayer or fund manager has demonstrated eligibility. If the  
200 commissioner rejects an application, the commissioner shall  
201 specifically identify the defects in the application and specifically  
202 explain the reasons for the disapproval. The commissioner shall render  
203 a decision on an application not later than sixty days from its receipt.  
204 Failure to render a decision within sixty days shall be deemed an  
205 approval of the application. The amount of the investment so  
206 approved shall not exceed the amount of state revenue, reduced by  
207 any tax credits, that will be generated pursuant to the revenue impact  
208 assessment prepared under this subsection.

209 (2) The approval of an investment by the commissioner may be  
210 combined with the exercise of any of the commissioner's other powers,  
211 including, but not limited to, the provision of other forms of financial  
212 assistance.

213 (3) Upon approving an investment, the commissioner may require  
214 the applicant to reimburse the commissioner for all or any part of the  
215 cost of any revenue impact assessment used in reviewing the

216 application.

217 (h) Upon approving an investment, the commissioner shall issue a  
218 certificate of eligibility certifying that the applicant has complied with  
219 the provisions of this section.

220 (i) (1) There shall be allowed as a credit against the tax imposed  
221 under chapters 207, 208 or 229 of the general statutes or section 38a-743  
222 of the general statutes an amount equal to the following percentage of  
223 the moneys of the taxpayer invested in an eligible urban investment or  
224 eligible industrial site investment approved by the commissioner with  
225 respect to the following income years of the taxpayer: (A) With respect  
226 to the income year in which the investment in the eligible urban  
227 reinvestment project or eligible industrial site investment project was  
228 made and the two next succeeding income years, zero per cent; (B)  
229 with respect to the third full income year succeeding the year in which  
230 the investment in the eligible urban reinvestment project or eligible  
231 industrial site investment project was made and the three next  
232 succeeding income years, ten per cent; (C) with respect to the seventh  
233 full income year succeeding the year in which the investment in the  
234 eligible urban reinvestment project or eligible industrial site  
235 investment project was made and the next two succeeding years,  
236 twenty per cent. The sum of all tax credits granted pursuant to the  
237 provisions of this section shall not exceed fifty million dollars with  
238 respect to a single eligible urban reinvestment project or a single  
239 eligible industrial site investment project approved by the  
240 commissioner and with respect to all investments made by a fund,  
241 shall not exceed the total amount originally invested in such fund.

242 (2) Notwithstanding the provisions of subdivision (1) of this  
243 subsection, any applicant may, at the time of application, apply to the  
244 commissioner for a credit that exceeds the limitations established by  
245 this subsection. The commissioner shall evaluate the benefits of such  
246 application and make recommendations to the General Assembly if  
247 such commissioner determines that the proposal would be of economic  
248 benefit to the state.



249 (3) Notwithstanding the provisions of subdivision (1) of this  
250 subsection, in any case in which, upon consideration of an application  
251 for approval of an investment or upon consideration of the  
252 reinstatement of a certificate of eligibility under subsection (r) of this  
253 section, the commissioner determines that the state revenue generated  
254 by the investment will not exceed the amount of the investment, the  
255 commissioner may approve a grant of credits on a different schedule  
256 or of a different amount than that set forth in said subdivision (1),  
257 provided in no case shall the amount of such credits exceed the  
258 amount of state revenue the commissioner determines will be  
259 generated by such investment.

260 (j) The credits allowed by this section may be claimed by a taxpayer  
261 who has made an investment (1) directly, only if such investment has a  
262 total asset value of not less than twenty million dollars, or (2) through  
263 a fund, only if such fund: (A) Has a total asset value of not less than  
264 sixty million dollars for the income year for which the initial credit is  
265 taken; and (B) has not less than three investors who are not related  
266 persons with respect to each other or to any person in which any  
267 investment is made other than through the fund at the date the  
268 investment is made.

269 (k) Each taxpayer claiming the credit allowed under this section  
270 shall submit to the Commissioner of Revenue Services a copy of the  
271 eligibility certificate issued under subsection (i) of this section with its  
272 tax return for each taxable year for which a credit is claimed.

273 (l) The tax credit allowed by this section, when made through a  
274 fund, shall only be available for investments in funds that are not open  
275 to additional investments or investors beyond the amount subscribed  
276 at the formation of the fund.

277 (m) (1) The Commissioner of Revenue Services may treat one or  
278 more corporations that are properly included in a combined  
279 corporation business tax return under section 12-223a of the general  
280 statutes as one taxpayer in determining whether the appropriate

281 requirements under this section are met. Where corporations are  
282 treated as one taxpayer for purposes of this subsection, then the credit  
283 shall be allowed only against the amount of the combined tax for all  
284 corporations properly included in a combined return that, under the  
285 provisions of subdivision (2) of this subsection, is attributable to the  
286 corporations treated as one taxpayer.

287       (2) The amount of the combined tax for all corporations properly  
288 included in a combined corporation business tax return that is  
289 attributable to the corporations that are treated as one taxpayer under  
290 the provisions of this subsection shall be in the same ratio to such  
291 combined tax that the net income apportioned to this state of each  
292 corporation treated as one taxpayer bears to the net income  
293 apportioned to this state, in the aggregate, of all corporations included  
294 in such combined return. Solely for the purposes of computing such  
295 ratio, any net loss apportioned to this state by a corporation treated as  
296 one taxpayer or by a corporation included in such combined return  
297 shall be disregarded.

298       (n) Any taxpayer allowed a credit under this section may assign  
299 such credit to another person, provided such person may claim such  
300 credit only with respect to a calendar year for which the assigning  
301 taxpayer would have been eligible to claim such credit. The taxpayer  
302 or fund manager shall file with the Commissioner of Revenue Services  
303 information requested by the commissioner regarding such  
304 assignments, including, but not limited to, the current holders of  
305 credits as of the end of the preceding calendar year.

306       (o) No taxpayer shall be eligible for a credit under this section and  
307 either section 12-217e or 38a-88a of the general statutes, for the same  
308 investment. No two taxpayers shall be eligible for any tax credit with  
309 respect to the same investment, employee or facility.

310       (p) Any credit not used in the income year for which it was allowed  
311 may be carried forward for the five immediately succeeding income  
312 years until the full credit has been allowed.

313 (q) Any tax credits approved pursuant to this section that would  
314 constitute in excess of twenty million dollars in total for a single  
315 investment shall be submitted to the General Assembly for approval. If  
316 such submission is not disapproved by the House of Representatives  
317 or the Senate or both within thirty days of the submission date, such  
318 credits shall be deemed approved.

319 (r) Not later than July first in each year that credits allowed by this  
320 section are claimed by a taxpayer with respect to an approved  
321 investment, the commissioner may retain such persons as said  
322 commissioner may deem appropriate to conduct a study to estimate  
323 the state revenue that is being and will be generated by such  
324 investment. Such economic impact study shall determine whether the  
325 state revenue actually generated by such investment is equal to the  
326 estimate of state revenue made at the time such investment was  
327 approved. If the sum of all state revenue actually generated by such  
328 investment is less than the amount of the total sum of tax credits  
329 claimed on the date of such analysis, the commissioner may determine  
330 from the person retained pursuant to this subsection the applicable  
331 recapture amount and may revoke the certificate of eligibility issued  
332 under subsection (s) of this section. The commissioner may require the  
333 taxpayer or the fund manager that made such approved investment to  
334 reimburse the commissioner for all or any part of the cost of any  
335 economic impact study performed under this subsection.

336 (s) (1) Any taxpayer which has claimed credits allowed by this  
337 section related to an investment concerning which the commissioner  
338 has revoked the certificate of eligibility issued under subsection (i) of  
339 this section, shall be required to recapture such taxpayer's pro rata  
340 share of the recapture amount as determined under the provisions of  
341 subdivision (2) of this subsection and no subsequent credit shall be  
342 allowed unless such certificate of eligibility is reinstated under the  
343 provisions of subdivision (3) of this subsection.

344 (2) If the taxpayer is required under the provisions of subdivision  
345 (1) of this subsection to recapture its pro rata share of the recapture

346 amount during (A) the first year such credit was claimed, then ninety  
347 per cent of such share shall be recaptured on the tax return required to  
348 be filed for such year, (B) the second of such years, then sixty-five per  
349 cent of such share shall be recaptured on the tax return required to be  
350 filed for such year, (C) the third of such years, then fifty per cent of  
351 such share shall be recaptured on the tax return required to be filed for  
352 such year, (D) the fourth of such years, then thirty per cent of such  
353 share shall be recaptured on the tax return required to be filed for such  
354 year, (E) the fifth of such years, then twenty per cent of such share  
355 shall be recaptured on the tax return required to be filed for such year,  
356 and (F) the sixth or subsequent of such years, then ten per cent of such  
357 share shall be recaptured on the tax return required to be filed for such  
358 year. The Commissioner of Revenue Services may recapture such share  
359 from the taxpayer who has claimed such credits. If the commissioner is  
360 unable to recapture all or part of such share from such taxpayer, the  
361 commissioner may seek to recapture such share from any taxpayer  
362 who has assigned credits in an amount at least equal to such share to  
363 another taxpayer. If the commissioner is unable to recapture all or part  
364 of such share from any such taxpayer, the commissioner may  
365 recapture such share from any fund through which the investment was  
366 made.

367 (3) If the commissioner has revoked the certificate of eligibility  
368 issued under subsection (i) of this section, such certificate of eligibility  
369 shall be reinstated by the commissioner if, upon a request made by the  
370 taxpayer or the fund manager which made such approved investment,  
371 an economic impact study conducted pursuant to subsection (r) of this  
372 section shall determine that the sum of all state revenue actually  
373 generated by such investment is greater than the amount of the total  
374 sum of tax credits claimed on the date of such analysis, provided no  
375 such request shall be made pursuant to this subsection during the  
376 calendar year in which such certificate was revoked. For the purpose of  
377 determining whether such certificate shall be reinstated, the  
378 commissioner shall, upon receipt of a request made under this  
379 subsection, obtain one such economic impact study per calendar year

380 and may obtain additional such economic impact studies as the  
381 commissioner deems appropriate.

382 Sec. 2. This act shall take effect July 1, 2000.

**CE Committee Vote:** Yea 26 Nay 0 JFS C/R FIN